IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16714 of 2004

Between:

D.Syed Abbas S/o. Syed Mohammed
R/o.H.No.17-3-194/13, Yakutpura Hyderabad**.**

..... PETITIONER

AND

University of Hyderabad, rep by its Registrar (A Central University established in 1974 by an Act of Parliament), P.O. Central University, Gachibowli, Hyderabad-46.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, declaring the action of the respondent in not issuing him call letter to the post of Lecturer in Urdu for the interviews scheduled to be held on 21.9.2004 pursuant to the Recruitment Notification No.Rectt/P.1/1/2002 dated 26.3.2002 as illegal, arbitrary and violative of Articles 14,16 and 21 of the Constitution of India and consequently direct the respondent to consider the candidature of the petitioner for the post of Lecturer in Urdu in the interviews scheduled to be held on 21.9.2004.

Counsel for the Petitioner: MR.MEHERCHAND NOORI

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Counsel for the Respondent.: MR.C.V.NAGARJUNA REDDY

The Court at the admission stage made the following :

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THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 16714 of 2004

ORDER:

The petitioner is one of the applicants for the post of Lecturer in Urdu, notified by the respondent-University. The interviews scheduled to be held on 21.09.2004 in pursuance of the notification dated 26.03.2002. In response to the notification, about 78 candidates made their applications for one post of Urdu Lecturer. The respondent-University appointed a Screening Committee to short-list the applicants, by fixing certain higher standards, to have more viability in conducting the interviews, instead of interviewing all the candidates for one post. Accordingly, the Screening Committee short-listed nine candidates, and they are being called for interview on 21.09.2004.

The petitioner contends that he is the most qualified candidate with Ph.D. as his academic qualification. Though he was allowed to make an application for the post, he is not being permitted to attend the interview, on the pretext of short-listing of candidates. Therefore, he was denied the right for consideration as a candidate, for the post of the lecturer in Urdu, and it amounts to denial of the fundamental right guaranteed under the Constitution.

The learned Counsel for the petitioner submitted that there is no transparency in the procedure adopted by the respondent-University and there is any amount of doubt regarding the norms adopted in short-listing the candidates. Therefore, it would be appropriate to direct the respondent-University to permit the petitioner to attend the interview.

The learned Counsel for the respondent submitted that in the General Information in respect of Teaching Positions prepared by the University, the following are the essential qualifications for the post of Lecturer.

> "Good academic record with at least 55% of the marks, or an equivalent grade of B in the 7 point scale with letter grades O,A, B,C,D,E & F at the Master's degree level in the relevant subject from an Indian University, **Or** an equivalent degree from a foreign University.
>
> Besides fulfilling the above qualifications, candidates should have cleared the eligibility test (NET) for Lecturers conducted by the UGC, CSIR or similar test accredited by the UGC in all the disciplines wherever NET examination is conducted by UGC/CSIR etc.,"

He further submitted that the screening committee, which was constituted under the Guidelines for screening of the applications for faculty posts prepared by the respondent-University, guideline 3.3 reads as follows:

> "If the Screening Committee deems it fit to recommend relaxation of any of the qualifications, then only the non-academic qualifications should be relaxed. The Screening Committee may also recommend raising the academic qualifications with a view to reducing the number of candidates to ensure the viability criterion. If the post is a reserved for candidates of the SC/ST categories only, admission of a non-reserved candidates will be irregular and it should be understood that the relaxation is not permissible."

The learned Counsel for the respondent submits that as per the said guideline No.3.3, the Screening Committee may raise the academic qualifications with a view to reduce the number of candidates to ensure the viability criteria. He further submitted that in the instant case, having regard to the highly disproportionate applications to the solitary post, the Screening Committee applied the criteria of 55% of the aggregate marks in any two of the three examinations preceded the Post Graduation. He, therefore, submits that in the light of the powers vested with the screening committee and in the light of the disproportionate number of candidates making the application, the screening of the candidates was done as per the viability criteria fixed by the screening committee by raising the qualification for the purpose of short listing the candidates.

` The learned Counsel for the petitioner submitted that though in the general information, there was a mention that the candidates should possess good academic record with at least 55% of the marks, it is intended to be applied only to

the post graduation and not for all the academic qualifications of each and every candidate. Therefore, after applying the said standard for the post graduation, it shall be held that the petitioner acquired the said required standard qualification in the post graduation. Therefore, it shall be held that he is entitled to be called for interview. The screening committee took a decision that those candidates, who have acquired 55% of the marks in two examinations preceding the post graduations, will only be called for interview. The petitioner, as per his information furnished in the application, acquired 58% in matriculation (10^{th} class), 39% in the intermediate and 52% in the Bachelor degree. This is not the requisite standard that is prescribed by the screening committee. Therefore, on the basis of the material available on record, it can be concluded that the petitioner did not secure 55% of the marks in two examinations out of three examinations preceding the post graduation. As per the submission of the learned Counsel or the petitioner it would be sufficient, if the candidate secures 55% of the marks in the master's degree and as the petitioner secured 70% of the marks in the master's degree, he is entitled to be considered for interview. The learned Counsel for the petitioner further submits that there is no power to the screening committee to prescribe the standard that the candidate should secure 55% in two subjects out of three subjects, and it is nowhere mentioned either in the guidelines or in the information furnished to the candidates. Therefore, the discretion exercised by the screening committee in prescribing the said standard is not valid under law. Therefore, it has to be ignored by calling the petitioner for interview.

The learned Counsel for the respondent cited a decision of the Supreme Court reported in **Madhya Pradesh Public Service Commission v. Navnit Kumar Potdar**, which was followed by another decision of the Supreme Court in **Union of India v. T. Sundararaman**, wherein the Supreme Court evolved a principal that the appointing authority has every power to short-list the candidates, who made applications for certain posts by applying a particular standard uniformly. The learned Counsel for the petitioner submitted that the above decisions of the Supreme Court have been distinguished by the Supreme Court in **Mohd. Riazul Usman Gani v. District & Sessions Judge, Nagpur,** wherein the Supreme Court deferred the view of the earlier decisions, by holding that the candidates shall not be distinguished on the grounds of qualifications. In the case of Md. Riazul decisions, the Supreme Court expressed its view in connection with the appointment of

attenders in judicial department, where the appointing authority disqualified many candidates on the ground that they are having higher academic qualifications. There is no dispute regarding the principle laid down by the Supreme Court in **Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi**. But, that is a general principle laid down by the Supreme Court while dealing with the service jurisprudence and it has no direct bearing on the facts of the present case. The petitioner is mainly harping upon three aspects, viz.,

1. the standard prescribed by the screening committee is not born out by any rules. Therefore, it cannot be accepted;

2. there is no transparency in the process of short-listing the candidates.

3. the 55% marks prescribed by the respondent university is only in respect of the post graduation and it shall not be taken into consideration in respect of the examinations preceding the post graduation.

But after carefully going through the guidelines prepared by the respondent, the information furnished to the candidates, the averments made in the affidavits filed by both parties and in the light of the above legal position, I do not find any discrimination in respect of the petitioner for the purpose of calling the candidates for interview. Whatever standard that was prescribed by the screening committee by invoking powers under guidelines 3.3, was uniformly applied to all the candidates, and after scrutinizing the applications on the basis of that standard, short-listed the candidates to nine. The procedure adopted by the screening committee in short-listing the candidates, is not against the principles laid down by the Supreme Court. As the petitioner failed to fulfill the standard prescribed by the screening committee regarding the percentage of marks to be secured by a candidate, who is eligible to be called for interview, his request to permit him to attend the interview cannot be considered. The petitioner did not point out any procedural irregularity or illegality in the selection process. Hence, the writ Petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Dr. G.YETHIRAJULU,J

Dt. 20th September, 2004

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L.R. copy marked.

One fair copy to the Hon'ble Dr. Justice G. Yethirajulu (For his lordships kind perusal).

Copy to:

1. The Registrar,

   University of Hyderabad,

   (A Central University established in 1974

   by an Act of Parliament)

   P.O.Central University, Gachibowli,

   Hyderabad.

2. 8 L.R. Copies.
3. The Under Secretary, Union of India, Ministry of Law, Justice & Company affairs, New Delhi.
4. The Secretary, A.P. Advocates' Association Library, High Court Buildings, Hyderabad.
5. Two C.D. copies.